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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 19 February 2004 from the Permanent Mission of Jamaica to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Jamaica to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit the report submitted by the Government of Jamaica pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 19 February 2004 from the Permanent Mission of Jamaica to the United Nations addressed to the Chairman of the Committee

Report of the Government of Jamaica pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003)

I. Introduction

1. To date, no reports have been received of any activities by Usama Bin Laden, Al-Qaida, the Taliban or their associates in Jamaica. Accordingly, they do not appear to constitute an immediate or serious threat to Jamaica or the region in general. As such, no likely trends in relation to their activities are readily identifiable.

II. Consolidated List

2. The 1267 Committee's List is distributed by the Ministry of National Security to law enforcement agencies and immigration and customs officials, requesting them to check if any individual or entity has assets associated with or belonging to Usama Bin Laden, the Taliban or Al-Qaida.

   The List is also forwarded to the Bank of Jamaica, the authority designated to monitor money-laundering offences in Jamaica, for it to conduct checks of the individuals or entities listed. The Money Laundering Act is the principal legislation used to criminalize any suspicious or illicit financial activity.

   The Terrorism Prevention Bill, currently before Parliament and once enacted, would provide the means for the incorporation within Jamaican law of the listing of entities suspected of committing or participating in terrorist activities.

3. No problems have been encountered with the implementation of the List with regard to the names and with identifying information as currently included therein.

4. To date, the relevant authorities have not identified any of the designated individuals or entities within the territory of Jamaica.

5. No individuals or entities associated with the Taliban, Al-Qaida or Usama Bin Laden, that have not been included on the List, have been identified in the territory of Jamaica. Accordingly, there are no names to submit.

6. None of the listed individuals or entities have brought a lawsuit or engaged in legal proceedings against Jamaican authorities, for inclusion on the List.

7. None of the listed individuals have been identified as nationals or residents of Jamaica nor do Jamaican authorities have any relevant information available on listed entities that have not already been included on the List.

8. Use, if necessary, of the Interception of Communications Act, increased vigilance by law enforcement officials at ports-of-entry as well as increased monitoring of monetary transfers and deposits by individuals to financial institutions, which have a duty to report suspicious transactions, are among the measures being taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities in the territory of Jamaica.

Part III. Financial and Economic Assets Freeze

9. Currently, there is no statutory basis for the freezing of assets of listed individuals unless the assets constitute realizable property for the purpose of the Drug Offences (Forfeiture of Proceeds) Act, namely:

(a) any property held by a person who has been convicted of or charged with, a prescribed offence; and

(b) any property held by a person to whom a person so convicted or charged has directly or indirectly made a gift covered by this Act.

However, it should be noted that property is not realizable property if:
(i) there is in force in respect of that property a forfeiture order under the Act or under any other enactment; and
(ii) a forfeiture order is proposed to be made against that property under this Act or any other enactment.

In common law, property can be frozen in civil proceedings. Generally, the power to freeze property as contemplated under the UN Resolutions would be incorporated into the Prevention of Terrorism Bill that is currently before Parliament.

10. In the banking sector, the Bank of Jamaica (BOJ) has circulated among its supervised institutions (which includes most financial institutions) the UN Listings of suspected terrorists and terrorist organizations and all institutions have carried out a screening exercise to determine if these financial institutions are in receipt of property belonging to Usama Bin Laden or members of the Al-Qaida or the Taliban. These exercises have not revealed that Jamaican banking institutions are in receipt of such property.

The Bank of Jamaica has also circulated among these institutions the FATF Guidelines on the Financing of Terrorism and is now preparing revised Guidance Notes to implement the FATF Revised Forty Recommendations.

11. Please see the answer to Question 10. Due Diligence and Know Your customer requirements are made under the Money Laundering Act, the Money Laundering Regulations as well as the Guidance Notes issued by the Bank of Jamaica. The Due Diligence and Know Your Customer requirements include:

(a) the establishment of procedures to ensure high standards of integrity of employees;

(b) the development of a system to evaluate the personal employment and financial history of those employees;

(c) the establishment of programmes for training employees on a continuing basis and for instructing employees as to their responsibilities in respect of the provisions of this Act;

(d) arrangements for an independent audit in order to ensure that the programmes as aforesaid are being implemented; and

(e) the designation of an officer of the institution, who performs management functions, to be responsible for ensuring the implementation of the programmes, policies, procedures and controls referred to above, including the reporting of threshold based and suspicious transactions.

The Money Laundering Regulations and the Bank of Jamaica Guidance Notes provide further details as to how these obligations are to be met, and deal with particular operational issues including:

- Systems and training to prevent money laundering;
- Identification procedures, business relationships and transactions;
- Payment by post, among others;
- Identification procedures, transactions on behalf of another;
- Identification procedures, exemptions relating to introductions;
- Identification procedures, supplementary provisions covering one-off transactions, and the practicality of obtaining information before commencing the transaction;
- Record-keeping procedures;
- Internal reporting procedures; and
- Financial institutions not to operate numbered accounts.

With regards to deposit taking institutions, which are supervised by the Bank of Jamaica, measures taken include the examination of money laundering systems present in those institutions. The Bank of Jamaica may take supervisory action insofar as failure to comply with the provisions of the Money Laundering Laws is considered to be an unsafe and unsound practice for the purposes of the Banking and the Financial Institutions Act, which could then trigger regulatory action. These institutions may also be prosecuted under the Money Laundering Act by law enforcement authorities.

12. The Bank of Jamaica has confirmed that no assets have been frozen as regards the deposit taking system arising from terrorism concerns. Again, such freezing powers are expected to be incorporated in the Prevention of Terrorism Bill.

13. Pursuant to answer 12 above, no funds or assets have been released as none have been frozen.

14. Currently, the Prevention of Terrorism Bill is expected to incorporate the procedure for the treatment of listed individuals and their assets. Once that Bill comes into effect, it is expected that restrictions placed on listed persons will be communicated to the financial sector by the Supervisor of that particular type of institution.

The Supervisor in the case of 'deposit taking institutions' such as banks and credit unions is the Bank of Jamaica, and in the case of insurance companies, securities dealers/brokers and mutual life funds, the Supervisor is the Financial Services Commission.

The Bill also contains obligations for the making of reports regarding the possession of assets that are owned by listed entities or individuals by banks, securities firms, insurance companies, credit unions, cambios, remittance companies and agents as well as friendly societies (namely charities) and other institutions designated by the Minister of Finance.

The reports will be submitted to a Designated Authority (possibly the Financial Investigations Unit of the Ministry of Finance). The Designated Authority will analyse these reports and then disseminate them to the appropriate law enforcement arm for further action.

The Bill does not currently contain any restrictions on the movement of gold or precious gems, although the power in the law to designate gold and gem dealers as financial institutions would pave the way for the imposition of legal obligations on these persons in the future. The draft Bill does not make provisions regarding Hawala systems which do not exist in

Jamaica, although it does cover remittance companies and agents as stated above.

IV. Travel Ban

15. The Travel Ban is implemented administratively by inclusion and circulation of the relevant details in the Watch List which is available to all officers at ports-of-entry.

16. The names of listed individuals and any other particulars once circulated to the relevant immigration agencies are incorporated into the national "Watch List." Currently, this is a paper-based arrangement.

17. The updated list is transmitted to border control authorities on a continuous basis. Currently, Jamaica does not possess the capability to search List Data using electronic means at all entry points. However, in approximately three months by April 30, 2004, an electronic border management system will be introduced which will be managed by a central unit responsible for the maintenance of the Watch List.

18. No listed individual has been stopped at border points or has transited through Jamaican territory.

19. Consular offices do not have a 'reference database' incorporating the Consolidated List. However, Jamaica's overseas missions are informed by the Consolidated List.

No visa applicant whose name appears on the List has been identified.

V. Arms Embargo

20. All importation, transit and exportation of weapons through Jamaican ports must be approved by the Ministry of National Security. Importers/exporters and shipping agents must furnish all documentation, that is, import, export and transit certificates and/or licenses for approval by the Ministry of National Security prior to them being allowed to enter the country.

This is in line with the Organization of American States (OAS) Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition.

21. A Terrorism Prevention Act is currently before Parliament and will become law this year.

22. The system as stated at question 20 above, is based on the OAS Model Regulations and the Convention Against the Illicit Trafficking in Weapons, Munitions, Explosives and Related Materials Ammunition. Domestically, the Firearms Act, the Gunpowder and Explosives Act, Explosives (Manufacture of) Act and Explosives (Sale of Deposited Stores) Act are relevant legislation.

The Commissioner of Police and the Ministry of National Security must approve all arms imports, exports and transit of arms, ammunition and dangerous explosives before they can enter Jamaican ports-of-entry.

Jamaica is not a producer or manufacturer of weapons or ammunition.

23. See question 22 above.

VI. Assistance and Conclusion

24. Jamaica is unlikely to be able to provide any assistance to other States to aid implementing the measures contained in Security Council resolutions 1267 and 1455.